

**UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA
(HARRISBURG)**

IN RE:

**Patricia Ann Warner fka Patricia
Ann Smith**

Debtor

**Wilmington Savings Fund Society,
FSB, as Owner Trustee of the
Residential Credit Opportunities
Trust V1-A**

Creditor/Movant

v.

**Patricia Ann Warner fka Patricia
Ann Smith**

Respondent

CHAPTER 13

CASE NO.: 1:23-bk-01189-HWV

HEARING DATE: 10/03/2023

TIME: 9:30a.m

LOCATION: 320

**MOTION OF WILMINGTON SAVINGS FUND SOCIETY, FSB, AS OWNER TRUSTEE
OF THE RESIDENTIAL CREDIT OPPORTUNITIES TRUST V1-A FOR RELIEF
FROM THE AUTOMATIC STAY PROVISIONS OF 11 U.S.C. § 362(A) AND RELIEF
FROM CO-DEBTOR STAY PROVISIONS OF 11 U.S.C. § 1301 TO PERMIT MOVANT
TO COMMENCE OR CONTINUE FORECLOSURE PROCEEDINGS ON 7270
HARMONY GROVE ROAD, WELLSVILLE, PA 17365-9748**

AND NOW COMES, Wilmington Savings Fund Society, FSB, as Owner Trustee of the Residential Creditor Opportunities Trust V1-A (“Movant”), by and through its attorneys, Hill Wallack LLP, and respectfully represents as follows:

1. This Motion (the “Motion”) is filed by Movant for relief from the automatic stay provisions of 11 U.S.C. § 362(a) and relief from the co-debtor stay provisions of 11 U.S.C. § 1301 to permit Movant to commence or continue its foreclosure on real property located at 7270 Harmony Grove Road, Wellsville, PA 17365-9748 (the “Mortgaged Premises”).

2. On or about December 15, 2006, Gallen D. Smith (“Co-Debtor”) and Patricia A. Smith (“Debtor”) executed and delivered to CitiMortgage, Inc. a Promissory Note (“Note”) in the principal amount of \$143,900.00. A true and correct copy of the Note is attached hereto and made a part hereof as Exhibit “A.”

3. To secure the obligations under the Note, Debtor granted Mortgage Electronic Registration Systems, Inc. as nominee for CitiMortgage, Inc., a valid, enforceable, and recorded

first lien and mortgage (the “Mortgage”) on the Mortgaged Premises, all of the terms of which are incorporated herein by reference as if fully set forth at length, which Mortgage was thereafter recorded in the York County Recorder of Deeds Office on December 18, 2006 in Book 1862 at Page 5026 as Instrument No: 2006099300. A true and correct copy of the Mortgage is attached hereto and made a part hereof as Exhibit “B.”

4. Movant is the current mortgagee by virtue of an Assignment of Mortgage. A true and correct copy of the chain of Assignment of Mortgages are attached hereto and made apart hereof as Exhibit “C.”

5. VP Asset Management for American Mortgage Investment Partners Management, LLC services the underlying mortgage loan and note for the property referenced in this motion for Movant. In the event the automatic stay in this case is modified, this case dismisses, and/or the Debtor obtains a discharge and a foreclosure action is commenced on the mortgaged property, the foreclosure will be conducted in the name of Movant. Movant, directly or through an agent has possession of the Note. The Note is endorsed in blank. Movant is the beneficiary or the assignee of the Deed of Trust.

6. On May 28, 2023, Debtor filed petition for relief under Chapter 13 of the United States Bankruptcy Code.

7. The Debtors listed the current value of the Mortgaged Premises in their Schedule A/B in the amount \$232,000.00.

8. As of the Petition Date, Movant is the holder of a secured claim in the amount of \$246,425.85 with pre-petition arrears due in the amount of \$95,420.97 together with additional legal fees and costs and taxes due and payable on the Mortgaged Premises per the Proof of Claim 7-1 filed July 18, 2023.

9. The current monthly payment on the Mortgage is \$703.10 per the Proof of Claim filed on July 18, 2023.

10. The Debtors, in their Plan, which has not been confirmed yet, state that post-petition payments will be made directly by Debtors to Movant.

11. As of August 23, 2023, the principal balance due is \$163,115.43 and the total amount due as of August 23, 2023 is \$250,350.91.

12. The Debtor is currently in arrears post-petition for the failure to pay the post-petition payments due June 1, 2023 through August 1, 2023 in the amount of \$2,109.30 (\$703.10 x 3 mos.), minus \$0.00 in suspense, for a total of \$2,109.30.

13. Consequently, Movant is entitled to relief from the automatic stay pursuant to 11 U.S.C. § 362(d)(1) and co-debtor relief pursuant to 11 U.S.C. § 1301 as the Debtors have defaulted on the post-petition payments.

WHEREFORE, Wilmington Savings Fund Society, FSB, as Owner Trustee of the Residential Creditor Opportunities Trust V1-A, respectfully requests that this Court enter an Order granting relief from the automatic stay provisions of 11 U.S.C. § 362(a) and relief from co-debtor stay provisions of 11 U.S.C. § 1301 to allow Movant to proceed in its foreclosure of the Mortgaged Premises, to name the Debtors in the foreclosure suit solely for the purpose of foreclosing their interests in the Mortgaged Premises, and to allow Movant, or any other purchaser at the Sheriff's Sale, to take any legal action necessary to gain possession of the Mortgaged Premises.

Respectfully submitted,

By: /s/ Angela C. Pattison

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